

BOARD OF ZONING APPEALS

May 4, 2005

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5 *[Members Present: Young, Brown, Tolbert, Perkins; Absent: Branham, Dorsey]*

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7 Called to Order: 1:04 p.m.
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9 CHAIRMAN BROWN: We'll call the May 4th meeting of the Board of Zoning
10 Appeals to order and I'll ask Mr. Farrar, from the County Attorney's office, to make some
11 preliminary remarks regarding procedures before the Board; if you would Mr. Farrar.

12 MR. FARRAR: Thank you Mr. Chairman, my name is Brad Farrar from the
13 Richland County Attorney's office. I'm going to go over the Boards procedure and take
14 any questions that any of you may have. A couple of housekeeping notes, the Agenda,
15 there have been a number of cases that have either been deferred or withdrawn. If
16 anyone's here for Case A, B or C, those have all been deferred or withdrawn. David
17 Turner, 1020 Bluebird Drive, is Case A. Carolyn Jones, 101 Forum Drive, is B. L.K.
18 Stork, at 126 Martin Carter Road. Case E has also been withdrawn, that's Sharlyne
19 Rucker, 152 Hardwood Drive. Case H, Wade Burgess, 838 Piney Grove Road. If
20 you're here for any of those cases, they'll be put on a subsequent agenda. So we only
21 have four cases left today. They are Special Exceptions and Variances, the types of
22 cases that the Board hears. The Board of Zoning Appeals is what they call a quasi
23 court, it's not a court of law but it's similar in terms of type of its function and type of way
24 the cases are presented. The Board takes testimony and evidence and somewhat
25 unlike a court of law you will actually get a decision today. Sometimes a court takes
26 awhile to issue its order, but you'll actually have a decision from the Board here in open
27 session today. The order of presentation, the Applicant has up to 15 minutes to present

1 his or her case. You don't have to take that time but you can certainly take it if you'd
2 like to. During the Applicant's case, any witnesses should also be included in that 15
3 minutes. Those in opposition have three minutes each. Again, you don't have to take
4 that time but you certainly can. When we have really large crowds, sometimes we'll,
5 you know, request a spokesperson if you have one. This case is not near full capacity
6 so I'm sure the Board will entertain anyone's opposition testimony as well. Then the
7 Applicant comes back for five, up to five minutes of rebuttal. So if you notice the order
8 of presentation, it's Applicant, opposition, and then Applicant at the end. Why does the
9 Applicant get to go first and last? This comes back to the quasi court nature, the burden
10 of proof for a case. The Applicant, not the opposition has the burden to prove why this
11 Special Exception or Variance should be granted. It's certainly not an insurmountable
12 burden, but you do have to demonstrate why you should get the relief that you're asking
13 for as the Applicant. The, at the end of that presentation - and the Board can ask
14 questions that may extend those time periods, but those are the base time periods that
15 we have - at the end of that presentation, the Board takes up discussion and then has a
16 motion period and will issue its decision. Now, the Boards decisions are not final until
17 the minutes from which the case was heard have been approved. So, for example, in
18 the May meeting, tape will be transcribed, minutes will be prepared in time for the June
19 meeting, most likely, in a case there may be some delay, but usually it's falls one month
20 later. If the minutes are approved at that point, without altering the Boards decision,
21 then you do have a final decision of the Board. The reason I mention this is so you will
22 know, I'm not the attorney for anybody but the Board, but just for your own information;
23 if, for example, you come in, have a Special Exception granted, and are excited about

1 that, you go out and spend some money, maybe hire a contractor if you're trying to put
2 a carport in, that type of thing. Come back a month later, if the Board wants to
3 reconsider the case, you know, you could have some financial risk that you put yourself
4 in, so just be aware of that time period. Generally you're going to know whether or not a
5 case is one that might be right for reconsideration if there is a lot of opposition or if it's a
6 controversial matter. If it's an unopposed, unanimous decision type thing, you're
7 probably in pretty good shape, but you can kind of handicap your own chances there for
8 a reconsideration issue. Once the minutes have been approved you do, as I state, have
9 a final decision of the Board. However, anyone who believes they have been aggrieved
10 by a Board decision may avail themselves of the Circuit Court process for appeal. This
11 is a separate, from the Board's rules, Title 6, it's not hard to do this, you just basically
12 state why, as a matter of law, the Board got the case wrong, how it hurts you and in
13 what way. You will kind of step in line with the other cases that are moving through the
14 court system, you will get a hearing, it may not be the next day, but it certainly will
15 come. It will be in front of a single Judge, that Judge will sit as an appellate body, there
16 will be no new evidence or testimony, it's just kind of like you're making an appeal to,
17 you know, to the Supreme Court type of situation. So, that's the process, not hard to
18 do, I'm not encouraging you do that, I'm just telling you it's available if you, if that's a
19 recourse you'd like to take following the decision today. The, that's pretty much it for
20 the order of presentation, the Board will consider exhibits and evidence that you'd like to
21 offer if you've already presented those, or given them to the Staff they should be
22 included in the agenda packet. If you haven't done that, last minute submission are
23 fine, just keep in mind the Board moves through the cases so they may not have an

1 opportunity to reflect on your last minute submissions as they would have if they had
2 been in the packet already, but they will take them. Sworn testimony and affidavits
3 obviously carry greater weight than unsworn testimony or kind of like a laundry list of
4 petitions, is not going to carry as much weight as a signed letter or notarized statement.
5 Just keep in mind, different pieces of evidence may carry different weight based on how
6 they are presented and if they're attested to under oath, that type of thing. Sometimes I
7 get the question, 'well gee do I have to sit here, you know, for the whole afternoon for
8 the case'? This is an open public session, you are free to come and go as you would
9 like, we just ask that you don't be disruptive when you do it. You can obviously step out
10 in the hallway for whatever purpose you may have, it's perfectly appropriate. Can't
11 guarantee you when your case is going to be called, you know, if you're the fourth one
12 in line today, it may be, you know, a half hour, an hour before it gets to it but, so you got
13 to, you know, I can't tell you to disappear for an hour and come back and guarantee
14 your case hasn't been called, but just keep in mind that you are free to go as you like. If
15 anyone has a cell phone or a pager, if you could please turn that to vibrate or off so we
16 don't pick it up on the machine we would appreciate that. In a moment I will swear
17 everyone in, we'll do this as a group so we don't take a lot of time with it. But if you're
18 going to speak to a case you do need to be on the sign up sheet for the case that you're
19 going to testify for. There's a for and against, sometimes depending on how the case is
20 captioned or styled it may not be clear whether you should be on the for or against side.
21 Just make sure you're on the sheet and then we can sort out where you need to be on
22 that sheet. If you haven't signed up but you're going to testify, please take the oath
23 anyway and we'll get you to sign up after my remarks are concluded. The only time, the

1 only couple of times the Board will not be where they are seated right now is if they take
2 a recesses if it's a long hearing or if they go into Executive Session. Executive Session
3 is something that any public body can go into under the Freedom of Information Act.
4 You can go in there to discuss a legal issue, contract issue or an employment issue.
5 The only real context that the Board would need to go into an Executive Session today
6 would be to discuss a legal matter, something comes up, it's just like if you talk to your
7 attorney, that's a private situation. The Board can't go back in Executive Session, which
8 is the chambers behind where they are sitting now, and take a straw vote or, you know,
9 try to see where the votes are at, you can't do that type of thing. You've just got to
10 discuss the legal issue, come back out in open session and make a motion so it's all on
11 public record. Other than that they'll be right where they are. They'll issue a decision at
12 the end of the case. If for some reason there is a tie, which is a potential since we have
13 an even number of Members today, I may go into a little more detail about the effect of
14 that, but if a tie vote, case keeps ending up in a tie, essentially the matter will be
15 deferred to the next agenda and they'll try it again. It's a little bit contrary to your
16 standard parliamentary procedure where something's fails for lack of a majority, but
17 that's what's in the County Ordinance so that's what we do. The Board consist of seven
18 Members, we only have four today, that is a quorum, that is enough to conduct
19 business. So fortunately, we've only had one time that I've been here we had to
20 actually disband the meeting because we didn't have enough folks and that was
21 somewhat disappointing, but we do have a quorum today. I believe that is the extent of
22 my remarks. If there are any questions about anything, especially the appeal or
23 reconsideration process I'll be happy to take those at this time. Okay if not, whether

1 you've signed up or not, if you plan to come to the podium and address the Board on a
2 case today, if you would please stand at this time, raise your right hand, I'll swear you in
3 as a group. Good, now do you swear or affirm the testimony you shall give, shall be the
4 truth, the whole truth and nothing but the truth so help you God?

5 AUDIENCE: I do.

6 MR. FARRAR: Please be seated. This is largely the honor system, if anybody
7 said anything other than 'yes' or 'you got it', please let me know. Otherwise we will
8 consider everybody sworn. I'll turn it back over to the Chairman at this time and thank
9 you very much.

10 CHAIRMAN BROWN: Thank you. I don't have anyone signed up for Case 05-
11 67 on Tyeu Trail, is Ms. Muhammad here? Come up and sign in please ma'am. And I
12 also don't have anyone signed up for the Case on Wilson Boulevard, Mr. Kiser. Is Mr.
13 Kiser here? If you can come up and sign in please. If anyone else hasn't signed up
14 and desires to sign up for any case at this time, please come forward and do so if you
15 would. Mr. Price, first case.

16 **CASE NO. 05-65 SE:**

17 MR. PRICE: Okay, first case is 05-65 Special Exception. The applicant is
18 requesting the Board of Appeals to grant a Special Exception to permit, to permit the
19 establishment of a beauty salon on property zoned RS-1. The Applicant is Shontel
20 Walters, the location is 2821 Larkhall Road. The subject property has an existing
21 single-family residential structure, a double driveway leads to a garage. The Applicant
22 proposes to establish a beauty salon that deals primarily in the braiding of hair. The
23 proposed hours of operation are Thursday 5:00 to 10:00 p.m., Friday 8:00 a.m. to 6:00

1 p.m. and Saturday 8:00 a.m. to 6:00 p.m. The subject property is located within a
2 community of single-family residential structures; that's the Briarwood Community. I
3 guess, kind of, a little bit more of correction, but we listed this as a beauty salon. It falls
4 more in line with a barber, a barber shop. That's what the license is for, more in
5 barbering rather than cosmetology.

6 CHAIRMAN BROWN: Ms. Walters, come forward and explain to the Board what
7 it is you are requesting please.

8 **TESTIMONY OF MR. MARICK WALTERS:**

9 MR. WALTERS: Good afternoon, we would like to first thank the Board –

10 CHAIRMAN BROWN: Would you please state your name for the Record.

11 MR. WALTERS: Yes, it's Marick Walters. We'd like to thank the Board for
12 allowing us to share our request. Basically what we're doing, it is actually not a barber
13 shop, it's actually not a beauty salon; we're requesting a Special Exception so that, my
14 wife and I work full-time regular jobs, that won't end, we're basically requesting that she
15 be allowed to do braids in our home and we actually have someone, I know you all have
16 pictures or examples, but we actually have someone just so you can see exactly what
17 that is and then I'll go a little more into detail of what it is we're wanting. Is it okay for
18 her to come?

19 CHAIRMAN BROWN: Sure, certainly.

20 MR. WALTERS: The reason we made the official request to have the Exception
21 is so that first of all so we could be above board and so that we could be upfront about
22 what our intentions were. We didn't want to do something in the neighborhood that the
23 neighbors were not aware of. The home occupation is not, again a beauty salon.

1 Basically my wife is not a cosmetologist, okay, she is licensed as a barber. This will not
2 be a situation where she cuts hair. She specializes in braids. This is not a situation
3 where you're going to have high traffic. If you notice from the young lady that walked
4 up, the time that it takes for her to basically complete one client ranges anywhere from
5 four to 10 hours. Okay, so there's not going to be a lot of traffic flow at all. One of the
6 other things that I think is important for us to point out is the interaction that she has with
7 her customers is very similar to what people do on a normal basis. If you have an
8 individual who teaches piano lessons in their home, it's the same type of interaction. It's
9 basically casually someone coming in, sitting down, it's my wife and that individual and
10 she puts braids in their hair. This is not a situation where we will rent chairs. This is not
11 a situation where we will have people walking in as walk-in customers. All of her
12 appointments, all of her business is by appointment, appointment only. So, if you look
13 at the time that it takes to do that, very low traffic. The other thing that we wanted to
14 point out is, you know, as required by the home occupation, you know, we do have
15 adequate parking without individuals being in the right-of-way. As you can see, and I'm
16 not sure if there's another picture that actually shows the garage area, but we have
17 more than adequate parking for individuals to do that. This is not a situation where we'll
18 have any deliveries. There won't be any signs. There won't be anyone loitering or
19 hanging around the property. Our rule with this is that the individual who's having the
20 service, that's the individual that will be in the home. So, we don't have individual's
21 bringing children and we don't have individual's bringing their husbands or their
22 significant others to sit, that won't be the scenario at all. As you can see a picture of the
23 garage, more than adequate space, the majority of the time our cars will be in that

1 garage during the time that she's performing this function. The house will remain as
2 you see it, so there won't be any change, you know, to the structure. If you look at the
3 house, it will look the same way that it looks now. Again, I realize that this was listed as
4 a beauty salon, or as stated as a barbershop, it won't be either of those. It's simply us
5 allowing an individual to come into our home, sit down and have her do braids. Now the
6 other thing that it's not, we're not requesting a rezoning obviously. A rezoning obviously
7 would have possibly a negative effect on the property value. Well, we live here too, so
8 it's never been, is not and has never been our desire, to change zoning whatsoever.
9 We simply want an Exception. One of the other things I'd like to point out, when we
10 look at the fact that this is an Exception that we're requesting and in light of the other
11 things that we've shared, we really don't see any reason why there would be any
12 negative impact to the community or to the neighborhood. You heard earlier the times
13 of operation. Again, we work, we work full-time jobs, that won't end. So there may be
14 days where we may have one individual that may visit our home and unless you knew it
15 you wouldn't know what was, that she was actually for braids. This is not something
16 that will be anything out of the ordinary, other, as it would be if a person came to visit.
17 One of the other points we want to bring out is, one of the why reasons why we'd like to
18 do this at our home is, many of the individuals that my wife works with, they have, and
19 it's called, it's it called, it's called alopecia, it means that they're balding, the females are
20 balding and they have issues being in an open public shop when they're having this
21 done. So this gives them an opportunity just to sit with here one on one and have her
22 put braids in.

23 CHAIRMAN BROWN: Would you state your name for the Record also?

1 **TESTIMONY OF MRS. SHONTEL WALTERS:**

2 MS. WALTERS: Ms. Shontel Walters.

3 CHAIRMAN BROWN: Thank you.

4 MS. WALTERS: You're welcome. Also, the reason why I got a barber license
5 instead of a cosmetology is because I specialize in braids and barber license is the
6 biggest license [inaudible] can get under the Barber and Cosmetology Board. I wasn't, I
7 didn't want to go into cosmetologist because I wasn't interested in doing chemicals. A
8 barber is not, is not licensed to do chemicals, so chemicals is not my agenda as far as a
9 beauty salon and that would be considered a beauty salon, doing chemicals. I don't
10 even, I'm not specialized in chemicals. I specialize in braiding.

11 CHAIRMAN BROWN: Okay, anything further to, any questions by Members of
12 the Board?

13 MR. TOLBERT: Will you need any type of sink or any type of salon device for
14 you doing the preparation of the hair?

15 MS. SHONTEL WALTERS: No, sir.

16 MR. TOLBERT: Nothing?

17 MS. SHONTEL WALTER: No because to be honest with you, my clients, they
18 come with they hair already washed so that I can be ready to get started because of the
19 time limit. So I know I will not need a sink.

20 MR. TOLBERT: In a course of a week, given your allotted time, saying you're
21 not working, how many would you be able to do per week?

22 MS. SHONTEL WALTER: Any where from three to four, it all depends on what
23 they, what they [inaudible] service they get.

1 CHAIRMAN BROWN: Mr. and Mrs. Walters, one of the things that the Staff
2 pointed out and quite correctly, is that you're required to be able to load and unload in
3 an area off of the public right-of-way and they did not readily see an area that would
4 permit you to do that and to have traffic not have to back out into the street. Have you
5 made any provision or discussed with the Staff at all anything with respect to that
6 concern?

7 MR. PRICE: I'm sorry, did that, just kind of reading over that, the word "not"
8 should not have been there. I'm sorry, it should have been, "Staff believes in area to
9 sufficiently meet these requirements has been provided."

10 CHAIRMAN BROWN: Without backing into the street?

11 MR. PRICE: What's, you know, we've kind of been through that before, unless a
12 circular driveway, or something is established, it's going to still back out onto the street.

13 CHAIRMAN BROWN: To what?

14 MR. PRICE: They will still be required to back into the street. Yeah, and what
15 Staff has observed, is that we've, is that there should be adequate area to park in the
16 driveway that you see before you and, of course, the, to exit the driveway you would
17 have to back out into the property.

18 CHAIRMAN BROWN: Okay, I have another Gail Brown signed up, does she
19 wish to speak?

20 **TESTIMONY OF MS. GAIL BROWN:**

21 MS. GAIL BROWN: Hi, I'm Gail Brown. Basically when I go to Shontel, when
22 Shontel was braiding my hair - I used to go to Shontel when she was at the beauty,
23 when she was at a beauty salon and it doesn't take very, I mean, she took five hours on

1 my hair and I don't see where when if she wants to have, you know, a braid at home
2 where it would effect the neighbors. I mean they, I could have just been visiting her,
3 they wouldn't know what she was doing to me, you know, with me, so I don't see where
4 it would interfere with the neighbors or anybody because she's only braiding my hair.

5 CHAIRMAN BROWN: Alright, thank you.

6 MS. PERKINS: I have a question. You're proposing to be open for 10 hours on
7 Friday and 10 on Saturday, five on Thursdays? And you said it takes approximately,
8 you said, from four to five hours to do a braiding, and you work full time. Why so long
9 on the Friday and Saturday? If you're, how many clients are you expecting, if that's an
10 average for a braid?

11 MS. WALTERS: About two clients, two, it really just depends, if - my small braid
12 it takes me anywhere from, I'm sorry, my small braids, they take me anywhere from
13 seven to eight hours, smaller than that may take me 10 hours. So if I start at 8:00 that
14 morning, if I have someone like Gail, it took me five hours, so that means at 1:00 I'd be
15 through. Then if I do another one it's going to take me five hours that me I be I be
16 through by 6:00, that mean that day I could possible do two heads. If I got a head that's
17 going to take me anywhere from eight to 10 hours then that would be my only head
18 scheduled.

19 MS. PERKINS: So your scheduling would be, how would you, well I guess by
20 talking to your clientele, but that you, if you would run over and that would be my
21 problem, you know, and you're saying, you've got 10 hours and you said there's a
22 difference between small braids and -

1 MS. WALTERS: I, that's, I try not to run over, that's why I was trying to schedule
2 according to what they going to get and I always ask my clients, when I book their
3 appointment, what are you getting. And, just say for instance, they come in and want to
4 change to a smaller braid and I know my time is not allowed for that, because I either, I
5 know I got another client coming in or I'm fixing to end my day; well I'll let them know
6 that you got to get what you asked for or you can reschedule because I don't want, I
7 don't, that day is long enough for me. So if, if, normally my clients rarely ever change
8 their minds and say they going to get something that's going to take me longer, I really
9 don't have that problem.

10 MS. PERKINS: How long have you lived in this community?

11 MS. WALTERS: Since December.

12 CHAIRMAN BROWN: I'm sorry?

13 MS. WALTERS: Since December of last year.

14 MS. PERKINS: Of last year, so about two years. Have you vested in the
15 homeowners', is there a homeowners' association or is there an organization in that
16 community, and have you and your husband vested?

17 MS. WALTERS: It is a homeowners' association and I did speak to Mr. O'Brien,
18 he did come to see me and he did told me that his next meeting would be on the 12th
19 and I told him that I would be at that meeting.

20 MS. PERKINS: So you haven't, you have not spent time with it prior to your
21 wanting the beauty salon, is that, I'm asking?

22 MR. WALTERS: Right, we've not spent time prior to, we actually, actually
23 purchased the home in July of last year. We actually moved in December. Since that

1 time, we've been doing a lot of renovation. We've been between work and doing that,
2 we've been doing a lot of this. We have inquired about the homeowners' association,
3 as my wife said, it is our intention to attend the next meeting, to find out more about it.
4 So we have every intention of getting involved, but we've been very busy and doing
5 renovations. And, by the way, all of the renovations have been for our personal living,
6 has nothing to do with the request we're making today, but we have every intention of
7 finding out more about the homeowners' association, as well as possibly join.

8 CHAIRMAN BROWN: And I assume from your answer then that you have not
9 discussed your proposed use of this property with the homeowners' association.

10 MR. WALTERS: No, not, other than him coming in, not with the whole
11 community.

12 MS. WALTERS: Not with the community, yeah, just only with him, Mr. O'Brien.

13 CHAIRMAN BROWN: And that was probably in response to the sign going up.

14 MS. WALTERS: Yeah.

15 MR. YOUNG: Mr. Walters I have a question, on the application you mention that;
16 number two, have braiding shop in back yard. Is there a separate structure that you
17 planned on using for this?

18 MR. WALTERS: No, it won't be a separate structure at all. When we were,
19 initially when we were thinking about this, we thought well maybe we would have a
20 place where we could do it, there won't be any separate structure at all, there will be no
21 separate structure at all.

22 MR. YOUNG: To Ms. Walters, braiding hair, is that, if you're going to braid and
23 call it a business, is that a license that fall under the barber's license or something?

1 MS. WALTERS: Yes, it is.

2 MR. YOUNG: It is?

3 MS. WALTERS: Yes, sir.

4 CHAIRMAN BROWN: Any further questions of the Walters? Alright thank you.
5 There are a number of people signed up in opposition. We'll listen to them and after
6 they're done you'll have a chance to rebut. First person I have signed up is Robert J.
7 O'Brien.

8 **TESTIMONY OF MR. ROBERT J. O'BRIEN:**

9 MR. O'BRIEN: Good afternoon Mr. Chairman, Board Members. My name is
10 Robert J. O'Brien, I am the President of the Briarwood Neighborhood Association. I've
11 lived in Briarwood since 1989 and a couple of years ago I was elected President. At
12 this time we'd like to pass out to you, the Board Members, a little packet we made up for
13 you to follow our presentation. The residents of the Briarwood neighborhood located in
14 the Northeast Columbia County are opposed to the request for a Special Exception,
15 listed in the subject to open a beauty salon on the premise for the following reasons.
16 We've, the Briarwood is a single-family unit area. We also have two schools located,
17 and if you'll turn to page 3, we have a map shows you the school that is primarily
18 located there. If you'll look at the orange dot, that is the location of the home that is in
19 question, on Larkhall. The green represents, the long green line represents the street
20 that it's on and the other location is the Windsor Elementary School. If, not showing on
21 the map here, but the neighborhood does extend further to the left and down in the
22 bottom left hand corner, not shown, is E.L. Wright Middle School. Anybody that's,
23 knows anything about the two schools, the traffic is tremendously heavy in the mornings

1 and in the afternoons in those locations, with backup traffic. There has been a, since
2 the conception of the Briarwood neighborhood back in the early '70's, the school
3 enrollments have increased tremendously, we're also receiving students that were not
4 really originally designated to go to that school because the new curriculums. The
5 middle school has, which is normally your 6th, 7th and 8th grade, they now are, have
6 another campus on their grounds there and what we're finding is more people are
7 driving their children to school than every before. We also feel that when the residents
8 bought their homes in the subdivision, it was within the intent of having safe residential
9 subdivision, free of retail business. Allowing a retail business in our subdivision would
10 further increase traffic that has already put our children and residents at somewhat of a
11 safety risk because not only do we have the school buses going up and down, left and
12 right, on Larkhall, you've got children walking up and down, you've got the more, like I
13 was saying earlier, that we have more traffic coming in there from outside of our area.
14 We have, into that section that you're looking at on the map, we only have three
15 entrances into that, all the traffic flows through those areas. A large number of children
16 —

17 CHAIRMAN BROWN: Excuse me Mr. O'Brien, but your time is up.

18 MR. O'BRIEN: Oh, okay.

19 CHAIRMAN BROWN: If you want to wind it up.

20 MR. O'BRIEN: Yes. Passed out to you that we had 200, we had a petition that
21 ran over the last four days of the weekend and we obtained 235 residents that were
22 against this. We only had one person that we approached during that time frame that
23 was not, would not sign it for personal reasons and sitting out here is a large group of

1 the neighbors that are from that area of, that we're talking about. So in conclusion, the
2 Briarwood residents do not want a small retail business, nor in the future in our
3 neighborhood. We feel that we – it would adversely affect the property values of our
4 homes and recommend that the Zoning Commission not approved the Variance
5 requested by the residents at 2821 Larkhall. Thank you very much for your time.

6 CHAIRMAN BROWN: One minute in case there's a question, anyone have
7 questions?

8 MR. TOLBERT: Yes, are you fully aware, you said, I know it states a salon, but
9 are you fully aware, after hearing their explanation of what they're planning to do, are
10 your feelings still the same?

11 MR. O'BRIEN: Yes. When the thing, when the residents in that area saw the
12 sign that came up they contacted me and I thought it was only fair that as President of
13 the Association I would stop and say, "Hey, I'm Jim O'Brien, President of the
14 Association, and I'd like to hear your side of this" and we talked. And she explained to
15 me basically what she was saying today. We stuck to the wording of the sign that says
16 beauty shop, beauty shop, and that's the reason we kept our wording in coherence with
17 what the sign was saying. We still feel the same way, that it just opens up, you're
18 saying okay, I'm going to let you do this, the next thing is, that are in people's minds is,
19 if business, lets say gets successful, the next thing is we have more people coming,
20 more people coming. Then the other side of the coin is, you have somebody else down
21 the street wants to get into some type of a business and then everything, we're stuck,
22 let's say a daycare program and another type do this. The next thing is we get away
23 from the true value of what we moved into those neighborhoods for was residence, not

1 to have retail businesses within our neighborhood. We feel there's adequate locations
2 outside of our community, the residence area there, that could be used for these types
3 of services.

4 MR. PERKINS: Mr. O'Brien, how do you let newcomers in your neighborhood,
5 make them aware of your homeowner's monthly meetings or -

6 MR. O'BRIEN: We hold a quarterly meeting. Our next one is May 12th, the last
7 one was February; second Thursday of, in February, second Thursday in May. We go
8 house to house and we hand out a neighborhood association newsletter and in that we
9 have, we talk about what has happened, what is going to happen during the, this next
10 meeting; in this case Sheriff Leon Lott is going to be there as a guest speaker. We also
11 put a membership application in there and encourage the membership. For the last
12 three months I have been beating, or the last three quarterly meetings, I have been
13 beating that over to our neighbors, please join the Association.

14 MS. PERKINS: So you do, so you do, each quarter, when you send out a
15 newsletter, it is placed in their door or whatever?

16 MR. O'BRIEN: Yes. I think I have a copy of one of those with me and I can
17 leave with you to show you but -

18 MS. PERKINS: No, I just wanted to know you -

19 MR. O'BRIEN: It's one of our big goals, is constantly try to increase that
20 membership.

21 MS. PERKINS: Thank you.

22 MR. YOUNG: And the Association is voluntary?

1 MR. O'BRIEN: Yes it is, at one time it use to be a paying Association when the
2 area out there was established, there used to be like \$25, \$50 a year for each family in
3 there. Somewhere along the line that went by the wayside, even with the swimming
4 pool that we have in that area, was all part of the, what they call the Association, but
5 now its changed and this came into effect about five years ago.

6 MR. YOUNG: You send a newsletter to everyone in the neighborhood or just the
7 members?

8 MR. O'BRIEN: No. We have 580 members, or families who live in there and we,
9 and the last one was in February, I personally delivered 580 of those to - I think it was
10 February or the fall one. So we encourage, we want everybody to be a member. We
11 feel that this is the reason why a lot of these people are here because they've joined
12 and they want to protect what they moved into the neighborhood for.

13 CHAIRMAN BROWN: Mr. O'Brien, we have been handed an e-mail from a Mr.
14 Johnson, who is the Vice President of Lake Chelsea homeowners' association, how
15 does that fit in with your homeowners' association?

16 MR. O'BRIEN: That association there was built around the lake, it has nothing to
17 do with our association. It's the people that live, the property butts up right against that
18 lake. It's within our, this area actually. If you, I think on the map there, it might show the
19 lake, yes it does. At the top of the map, there's a lake there.

20 CHAIRMAN BROWN: So it's sort of a sub-set of your association?

21 MR. O'BRIEN: Yes. It has nothing to do with, they have their own, you know,
22 what it is, is so they can maintain the maintenance of that, that lake and its dam.

1 CHAIRMAN BROWN: Thank you, any other questions? Thank you, Mr. O'Brien.
2 Next person I have signed up is Gene Godley – Gordon, I'm sorry.

3 **TESTIMONY OF MR. GENE GORDON:**

4 MR. GORDON: I'm Gene Gordon and I have been a resident of Briarwood
5 subdivision for about 26 years, a long time resident there and I want to also echo or
6 endorse what our President of the Association has, is saying. And the reason that I
7 moved into that subdivision is because it does have two schools within the confines of
8 Briarwood, so my children were able to walk to the elementary and middle school. And
9 I feel that having a retail operation within the confines of the association is not in
10 keeping, and it would certainly violate the safety, or could hurt the safety of our children.
11 Now, Mr. Chairman I would also like to point out that the subject property, on the
12 attached map, is more in the center and to the back of the subdivision. So the folks that
13 come in to have their hair done, they would obviously have to come through and almost
14 by this school, which is a real concern of us as residents within this subdivision. So that
15 is a concern. It is not on the peripheral, it is not at the entrance of the subdivision and if
16 it was there it might not be near the concern that it is, where it's currently located by the
17 school. The signatures, I would like to say also that the signatures that we gathered,
18 everybody did want to be here but obviously a lot of them couldn't, but a lot of them did
19 and they wanted to strongly voice their opinion and support of this, of our position not
20 getting that approved. So, I do want to point out that and we did that within about a four
21 day period, so it was a very short period that that was done. And would like to address
22 one question that the Council had about how we notify. We also put, about the
23 association meetings, there's also public signs displayed out at the entrances to the

1 subdivision, because as people go in and out, announcing when the next quarterly
2 association meeting is and we do that so we can get everybody involved. Also I'd like to
3 say that Richland County Council attends our association meetings on a regular basis
4 and they within themselves says that we probably have one of the more active
5 subdivision, association meetings around. So, which we're real proud of, because they
6 come and they help and they help us keep this a safe and a good residential
7 neighborhood. So that is, and I would like to strongly urge, based on the safety of our
8 children, based on the location of the property, being in the middle and toward the back
9 of the subdivision, that it would create a safety factor for our children and our residences
10 within this neighborhood. That's pretty much my time.

11 CHAIRMAN BROWN: Any questions for Mr. Gordon?

12 MR. TOLBERT: Yes. I'm going to ask you, given the facts now that you know
13 that's not going to be a high volume in the neighborhood, now that you have the facts
14 about what it's going to be, do you still feel that it'll be an impact around the school?

15 MR. GORDON: I think it will certainly increase the activity for those people to get
16 to the place of business they've got to drive in, so obviously there is going to be some.
17 Now, you know, she's saying it won't be a high traffic area, but I do feel that having a
18 retail operation within the confines of this resident, residential subdivision and the
19 schools in there, would adversely affect the property and what this is all about, a
20 residential subdivision.

21 MR. TOLBERT: Okay, I want to ask another question. I can understand the part
22 about the business in the subdivision but I cannot justify the part about the traffic. If you
23 only can do, in a course of a week, that's no different than a neighbor coming in to visit,

1 two or three times a week, I mean, that's the same impact. So I ask you again, does it,
2 you feel that that will still be an impact, with just five people in the course of a week?

3 MR. GORDON: Well I still feel that a retail operation in the subdivision is an
4 impact, yes.

5 MR. TOLBET: I understood that part, we both agree on that part. I'm asking you
6 about the traffic impact on the school.

7 MR. GORDON: Well, it's additional traffic that we don't have now, I guess is
8 what I would be saying.

9 MR. TOLBERT: But it would be no more than a new neighbor move in and
10 somebody come to visit them once a week, I, you understand what I'm saying?

11 MR. GORDON: Sure.

12 MR. TOLBERT: I understand that part. I'm just trying to see the significance of
13 the impact of the school, is what I'm trying to see.

14 MR. GORDON: Well, I think, I hear what you're saying, but I still think it would be
15 additional traffic there [inaudible].

16 MR. TOLBERT: Thank you.

17 CHAIRMAN BROWN: Any other questions for Mr. Gordon? Thank you, sir.

18 MR. GORDON: Thank you, Mr. Chairman.

19 CHAIRMAN BROWN: Next person I have signed up is Ray Ganya.

20 **TESTIMONY OF MR. RAY GANYA:**

21 MR. GANYA: Good afternoon. Thank you for having us so we can speak this
22 morning. My name is Ray Ganya and I am the neighbor of the property in question.

1 CHAIRMAN BROWN: Could you speak up just a little sir, I'm having a little
2 trouble hearing you.

3 MR. GANYA: You having trouble hearing me, how about that?

4 CHAIRMAN BROWN: There you go.

5 MR. GANYA: One, two, three, four, okay. Yes, I'm Ray Ganya and I'm the direct
6 neighbor to the property in question, 2821 Larkhall Road. I've been living in my present
7 residence for 33 years and I have got the best property in the neighborhood. I'm
8 speaking for everybody. And I oppose the situation of changing the zoning to a
9 commercial property for many reasons that have been addressed to you on the last two
10 speakers and I fully would appreciate you people to give us a great consideration to
11 keep the zoning as RS-1, up and throughout. Any questions?

12 CHAIRMAN BROWN: No but I'd like to clarify one point for you [inaudible], Mr.
13 Ganya. The function of this Board is not to change the zoning on the property. The
14 property will remain residential. The function of this Board is to make a determination
15 as to whether as an exception to the normal zoning uses on that property, the Walters
16 are going to be allowed to have a beauty salon or braiding salon, whatever you want to
17 call it.

18 MR. GANYA: I understand.

19 CHAIRMAN BROWN: But, I don't want you to go away with a misconception that
20 it will, it will in any way effect the zoning that's on the property.

21 MR. GANYA: Well I still want to add just a little more to it. In my personal
22 opinion, I still think it would reduce the value of my property and everybody else's
23 around and they all have the same concerns.

1 CHAIRMAN BROWN: I understand. I just didn't want you to be under
2 misapprehension.

3 MR. GANYA: Certainly, yes, well that's all I have to say.

4 CHAIRMAN BROWN: Any questions for Mr. Ganya?

5 MR. GANYA: Thank you very much.

6 CHAIRMAN BROWN: The next person I have signed up is Mackey Goodwin.

7 **TESTIMONY OF MR. MACKEY GOODWIN:**

8 MR. GOODWIN: My name's Mackey Goodwin. I live directly across from this
9 property. I've lived at my address for 33 years also. I'm opposed for several reasons,
10 several of which have already been spoken to here today. We that have lived in this
11 neighborhood for a long time have children that were raised here, mine are grown now,
12 that ran up and down these streets because there are no sidewalks for them to play on
13 anyway. I have grandchildren that come back now and, while you can't be with your
14 grandchildren all the time, they're going to be out about, doing things. There are a
15 number of children on this street that live further down, further up the hill, from this
16 property that come by there every day. I know of four or five of them because I speak to
17 them as they come by and talk to them. Even if you have one more car or five more
18 cars, or however many there might be, that's traffic that normally wouldn't be coming
19 into this neighborhood. I have great concern for the safety of the children that are in this
20 neighborhood and our grandchildren that come to this neighborhood. I'm opposed to
21 any variance of, for any reason. I agree with Mr. Ganya, that it will devalue all of the
22 property in the long run. Thank you, sir.

1 CHAIRMAN BROWN: Any questions for Mr. Goodwin? Thank you, sir. Next is
2 Charles Hamrick. The next people I have, just a matter of information, after Mr.
3 Hamrick will be Ms. Rose, Ms. Welch and Ms. Jones. Yes, sir.

4 **TESTIMONY OF MR. CHARLES HAMRICK:**

5 MR. HAMRICK: Okay, my name is Charles J. Hamrick, Sr. and as Mr. Goodwin,
6 he lives directly across from them, I live sort of directly across from them, so, my front
7 door can see in their front door, just about. And I would urgently ask y'all to vote
8 against this proposal for the simple reason, it took me many years of scrimping and
9 saving to get the money to get a house like in this type neighborhood and God gave me
10 a house in this type neighborhood and I fear that in the future a sign may go up there
11 and even if it doesn't someone comes, say I die and my wife has to sell the house to
12 get the money to take care of things, that anybody coming to look at that house, even if
13 there, there's not a sign out front or anything, we all know that by word of mouth they
14 will find out this and right away turn away and I feel like it would devalue my property
15 quite a bit. And that will, and I'm 72 and a plus and I've already made my planning for,
16 you know, for my, what do you call it, 'Senior Years' and there's no way you can go
17 back and change this planning. This house was an investment in that planning and
18 that's about all I got to say, I just hope y'all take it to heart and consider everything and
19 not approve it.

20 CHAIRMAN BROWN: Alright, sir. Are there any questions for Mr. Hamrick?
21 Anyone want to know anything about his 'Senior Plan?' [Laughter] Okay.

22 MR. HAMRICK: Well, you get in the mail all the time, you know it. You don't
23 realize until you get there that you have to plan for that or you're really hurting.

1 CHAIRMAN BROWN: I hear you. Alright thank you, Mr. Hamrick. Next is Annie
2 Rose Welch.

3 **TESTIMONY OF MS. ANNIE ROSE WELCH:**

4 MS. WELCH: I've been a resident of -

5 CHAIRMAN BROWN: State your name please, for the Record ma'am.

6 MS. WELCH: Is that better?

7 CHAIRMAN BROWN: No, state your name for the Record if you would.

8 MS. WELCH: Oh, I'm Annie Rose Welch. I live on Saint Ives. I am against this.
9 This has been a wonderful neighborhood and we bought we thought it was residential. I
10 am an active member of the Association and I put the flyers out. As the question was
11 asked earlier, everyone gets a notice about the meetings, whether you are a member or
12 not. And I am just, I think that this will devalue our property and I would like to note, let
13 you know that I am in opposition of it.

14 CHAIRMAN BROWN: Alright thank you, ma'am. Any questions for Ms. Welch?
15 Constance Jones and following Ms. Jones will be Clarence Smith and Sammy Nelson.

16 **TESTIMONY OF MS. CONSTANCE JONES:**

17 MS. JONES: My name is Constance Jones and the reason why I am opposing
18 this is that I'm a couple houses down from there. I've actually, the way the road ends, it
19 kind of sinks and my home is there. I have three grandchildren, one's a special need
20 child. I've only been in the neighborhood for two years, however, my concern is even
21 though that she's only going to do it a few hours, or toward the weekend, what about
22 potential growth? I'm sure that she's not just going to keep those few clients. As her
23 business grows it's going to increase the traffic. Because of the way the road slopes, if

1 the traffic, and I know for a fact that I sometime rush when I have an appointment and
2 maybe just running a little late, you can't see what's on the bottom of the hill, so there's
3 a potential risk of automobiles speeding down there to make an appointment. That's my
4 concern, is the safety for my grandchildren and the increased traffic as her business
5 grows.

6 CHAIRMAN BROWN: Alright thank you, ma'am, any questions for Ms. Jones?
7 Thank you. Clarence Smith.

8 **TESTIMONY OF MR. CLARENCE SMITH:**

9 MR. SMITH: My name is Clarence Smith and I stay on 2821 Saint Ives. My big
10 concern is that, I'm not saying that she won't have, not doing the job, I mean, I'm not
11 saying that she's not a good person. What I'm concerned about is the neighborhood. If
12 we allow something like this to happen in our neighborhood, something else might
13 occur, and that's what I'm afraid of. If another, if we allow this business to come in and
14 then we'll have another business to come in, I just want to stop it so we can have a nice
15 neighborhood. That's basically my concern about the whole situation.

16 CHAIRMAN BROWN: Thank you, sir. Any questions for Mr. Smith? Thank you.
17 Next speaker is Sammy Nelson; following Mr. Nelson will be Richard Mazik and Jack
18 Graham – Gray I guess it is.

19 **TESTIMONY OF MR. SAMMY NELSON:**

20 MR. NELSON: Good afternoon Mr. Chairman and Board Members. My name is
21 Sammy Nelson. I live right around the corner where the residential is in question.
22 When we bought our home seven years ago, we looked for a neighborhood that was
23 quieter and peace, where our kids could enjoy our elderly neighbors and play and when

1 they get tired of them they can send them home. [Laughter] And they do that even
2 today. And we value our safety. Now you said that one day a week, you know, if
3 visitation will not increase the traffic hazard. Well, I want to challenge you on that; you
4 saying just on Fridays? Well on Fridays a lot of parents pick their kids up from school
5 and so the traffic flow in that area is already significant. Our kids walk down Larkhall
6 and I've seen, just the other day, where a little boy liken to got hit right down the road
7 from this residential area, from this house. And so I'm concerned about that and I'm
8 concerned about the property value. You know, as Clarence had stated earlier, if we
9 allow one business to come in, what's going to stop some others from coming in and
10 then the type of clientele. I know she's not responsible for people's action but what kind
11 of clientele is going to come into the community through this? That, that's what I'm
12 concerned about as well, those three main issues. And my boys do walk down there
13 and I'm afraid and especially with Ms. Marilyn and the others who are out walking and
14 Ms. Rose, who walk the neighborhood frequently, I'm concerned about their safety as
15 well.

16 CHAIRMAN BROWN: Alright, sir. Any questions for Mr. Nelson? Thank you,
17 sir. Next is Richard Mazik.

18 **TESTIMONY OF MR. RICHARD MAZIK:**

19 MR. MAZIK: Close enough. My name is Richard Mazik. I'm a 33 year resident
20 of Larkhall Road. I look at it as, it as Briarwood has been and still is a family, single-
21 family residential neighborhood. I feel that the zoning variance should be denied
22 because I just don't believe it's consistent with the make-up of the neighborhood being
23 single-family and especially since this particular house is in middle of the street, a

1 single-family residential street, in the middle of the subdivision. Now after hearing the
2 Walters presentation, the one concern that I still have is that the variance you will grant
3 is for a beauty salon or barber shop. They're saying now that they're going to do a
4 particular type of this that has limited traffic in there. I'm wondering in my own mind, if
5 their plans change, what is to prevent them from going into a barber shop or a beauty
6 salon and that traffic increasing in future years? I also have a concern about the retail
7 business opening on Saturday and on Friday evenings, again because of the children
8 playing in the streets, the bicycles going up and down, the people playing basketball
9 and running around. So I, again I just don't feel it's consistent with the make-up of the
10 neighborhood. Thank you.

11 CHAIRMAN BROWN: Any questions for Mr. Mazik? Thank you, sir. And the
12 last person I have signed up is Jack, is guess it's Gray.

13 **TESTIMONY OF MR. JACK GRAY:**

14 MR. GRAY: My name is Jack Gray. I live on Saint Ives Road. I had the same
15 impression a lot of you did when the lady described her business as much more limited
16 than the original comment of a beauty salon. However, and I'm very sympathetic to her
17 situation, but the only thing I could see that could be accomplished by giving her her
18 desires is that some lady doesn't have to walk into a beauty salon with her, with a little
19 bit of less hair than another lady; that's the only thing I see that she's requested to
20 accomplish. She's operated out of a regular beauty salon in the past. I see no reason
21 she can't continue to do it, encourage her and everything. But I'm like Mr. Mazik there, I
22 am really concerned with the idea of the precedent that you're establish. Once you
23 open the door, or as they say, "lift the tent, the camel's nose, to accommodate the

1 camel's nose, how do you stop the rest of them?" It just, it flows forward. So I, I think
2 we, as nice as it would be to accommodate the lady, I cannot see where anything
3 positive, really positive can come out of the deal. So I encourage you to deny the
4 request. Any questions?

5 CHAIRMAN BROWN: Any questions for Mr. Gray? Thank you, sir. Ms. Walters
6 you have an opportunity to come forward and rebut any matters presented in
7 opposition.

8 MR. WALTERS: Thank you, Mr. Chairman. In just, just making some notes
9 about some of the comments, one of the main things that I heard are there are two
10 schools in the area and this is true. But the majority of the activity that my wife will
11 perform will be after school hours and actually the way that everyone, for example,
12 that's come to my home thus far, didn't drive by the school, didn't have to drive by the
13 school. There is an entrance that they can come in and not have to pass the school.
14 Granted we live close to it, but they don't have to drive by the school. Again, the
15 increased traffic, I can have four people to visit me in a week and it's the same thing.
16 I'm concerned about safety as well. One of the issues that came up was, well the type
17 of clientele. My wife doesn't do dyes and red hair and green hair, she doesn't have
18 those kinds of clients. She does hair with individuals who have upstanding positions
19 just like the rest of us do or those of us who have retired, she has a respectable
20 clientele. This is not the type of cliental that you will find hanging out at a barbershop or
21 even - it's not those kind of individuals. So believe me, this is, this would be our home,
22 so just as our neighbors wouldn't want them in their neighborhood, we wouldn't want
23 them in our home either. So the fact that she schedules by appointment gives her an

1 opportunity to screen what type of individuals she would do business with. As far as
2 growth, again, we have no intention, as I said before, of renting chairs. If we get, if she
3 got to the point to where it just grew and grew, we would move our business out of the
4 neighborhood. But to be honest with you, because of the things that we have planned
5 for our future and for our family, what she's doing is sufficient for us. We don't have any
6 intention of this growing into anything. She wants to maintain her current customers,
7 basically consistent with where she is. Also one other point about the Association.
8 Again it is voluntary. As I stated earlier, we have every intention in finding out about
9 that, but as we moved into the neighborhood, we had things we needed to get in order,
10 so we just haven't joined yet. But, you know, it is voluntary, it's something that we have
11 chosen to do, once we have an opportunity to do that, we will attend the next meeting.

12 MS. PERKINS: I have a question. I heard your comment, you said you don't
13 intend to grow, and I'm just asking, what is the purpose of putting in the braid shop? Is
14 it for income or are you just going to do it for free? I'm just trying to pickup on what
15 you've said.

16 MR. WALTERS: The purpose, the purpose of putting it at the home is several
17 reasons. One thing that it does, it gets my wife out of a shop, if she has to work late at
18 night, she's at home. The other reason is, yes it does provide us some income, but she
19 thinks about her clients as, well you'd be amazed at the number of her clients who feel
20 like, I wish you just had a private place. So it gives us an opportunity to do that. When I
21 say we have no intentions of growing, what I'm saying is that she's not trying to go out
22 and get 15, 20 new clients, she has clients that come to her repeatedly. We're not
23 trying to grow into a salon, we simply want to be able to perform the task [inaudible].

1 MS. PERKINS: So she's actually outgrown where she is now?

2 MR. WALTERS: No, no, she's not outgrown. She was in a shop. She hasn't
3 outgrown that, she simply -

4 MS. PERKINS: I mean have clientele, I'm sorry, I'm sorry, I didn't mean, I
5 thought I heard you say that. So her clientele, I thought I heard you say that some of
6 her clients that she services now can come to her home so that she won't spend
7 enough, such a lengthy time at the beauty shop?

8 MR. WALTERS: No.

9 MS. PERKINS: You did not say that? I'm sorry.

10 MR. WALTERS: No it's not so she want spend such a lengthy time. They want
11 to come to her home so that, so that their condition doesn't have to be seen by
12 everyone else.

13 MS. PERKINS: So all of her clients have problems?

14 MR. WALTERS: No, not all of them.

15 MS. WALTERS: No, the majority of them. [Inaudible] are problem, the majority
16 of them. And also, just to let y'all know Board, I've been licensed now, I've been doing
17 hair now for about 12 years. I recently took a full-time job because I'm not, I'm not burnt
18 out from doing hair I just want to explore my options in getting something where it's not
19 so hard on me. So I'm not looking to build up a clientele. I have enough repeated
20 business to keep, to keep me going. So I'm not, I'm not looking to expand my business.
21 I've been doing this 12 years. I've been on a full-time job now over a year, so I'm
22 looking to expand my business. I'm not looking to quit my job to do this full time. I have

1 already done this for 12 years full time; in fact this my first job I ever had since I
2 graduated from high school. So I'm not looking to do this full-time again.

3 MS. PERKINS: Well I'm, I was just asking you, I understand, I was trying to
4 clarify in my mind and it seems like you want to be a good neighborhood.

5 MS. WALTERS: Yes I do.

6 MS. PERKINS: That you have the appearance of one and I was just trying to
7 settle in my mind with the people that were coming up, so, thank you.

8 CHAIRMAN BROWN: Any further questions for the Walters? Thank you.

9 MR. WALTERS: Thank you.

10 MS. WALTERS: You're welcome.

11 CHAIRMAN BROWN: Members of the Board you've hear the testimony, both on
12 behalf of and in opposition to the request. Now I'll entertain any discussion by Members
13 of the Board.

14 MR. TOLBERT: Mr. Chairman, I have some reservation, but I think my question
15 got answered before I had a chance to think about it any longer. I know the immediate
16 situation does not impact as to the understanding of what they plan to do, but I'm
17 somewhat reluctant to understand if somebody go into business, they're not going to try
18 to build it up some kind of way. Regardless of what you say, or what you make me
19 believe you're going to build the business because you wouldn't start if you didn't plan
20 to build it so that has a great impact on me, that it would impact the community because
21 somewhere down the line, if not this year or next year, it will exceed that potential of that
22 outlook or that projection from the start. So I just want to throw that in for my input.

1 CHAIRMAN BROWN: I share that concern. I'm not persuaded that the traffic is
2 going to have any significant impact, because I don't think it's, there is that degree of
3 traffic. But I thought about the same thing in terms of the growing of the business, plus
4 simply the encouragement of a commercial use into a, you know, an established
5 residential neighborhood always concerns me and I'm never convinced that it's really a
6 good thing. And I become more convinced of that when you have a neighborhood,
7 that's obviously as cohesive as this one is and where you have an outpouring of
8 concern that you see both here in the persons that are present as well as the other
9 material that we've received. So I share your concern and if I lived in that neighborhood
10 I think I'd be concerned also about the presence of a commercial use. Any comments,
11 I'm sorry go ahead.

12 MR. YOUNG: I think that, I think that for the most part, all of us share the same
13 concerns, but instead of trying to, none of us has a crystal ball, we don't know if this
14 business will grow or what will happen, but looking at what was presented, what's
15 presented to us today, I don't see traffic impact on the neighborhood. I don't see, or
16 hadn't heard anyone say how it would devalue their property or their neighborhood. I
17 don't see how it'll impact safety, based on what I'm looking at and what was presented
18 today. So, I can understand them not wanting the precedent of how it may affect their
19 neighborhood one day, but no one knows what's going to happen from day to day. One
20 thing I think that would have helped it early is a little better communication between the
21 Homeowner's Association and the Applicant. I think a lot of the people that signed this,
22 signed in opposition to a beauty salon in their neighborhood or retail in their
23 neighborhood or a variance, a change in zoning in their neighborhood, which the

1 application we have before us today, you know, it's none of that. So, you know, I can
2 understand the concerns and - but I'm really torn, I'm definitely torn between it. I don't
3 see the negative impacts that concern most people, not in what's presented before us
4 today.

5 CHAIRMAN BROWN: Any further comments by Board Members?

6 MS. PERKINS: Well I'd have to agree with what you're saying about the traffic.
7 But I also think that consideration should be given to those residents who have tenure
8 there. I think that my reason for asking how did the Association disseminate information
9 to newcomers that come into the neighborhood, to let them know about when they meet
10 and what they meet about is a good way and I, and I thought the way the Applicants
11 presented themselves was they really wanted to be good neighbors. I think tenure does
12 have something to do with it and I would be frightened too. I thought I misunderstood
13 him when, I don't see people going into business not wanting to gain a profit. Not to say
14 that, and there is not limitation in her application about how many people, you know, will
15 come to her home. I did hear her say that she was, you know, working in a beauty
16 salon. She does have, I guess, special clientele, but I still think that a great
17 consideration should be given to the people who are there and so I, I'm not sure, but I
18 guess I will be when you call for a vote.

19 CHAIRMAN BROWN: Any further discussion by Board Members? Hearing none
20 the Chair will entertain a motion.

21 MR. TOLBERT: Mr. CHAIRMAN, I make a motion that 05-65SE, be denied.

22 MS. PERKINS: Second.

1 CHAIRMAN BROWN: It's been moved and seconded that request 05-65 SE be
2 denied. All those in favor of the motion signify by raising their hand. Opposed?

3 *[Approved: Brown, Tolbert, Perkins; Opposed: Young; Absent: Branham, Dorsey]*

4 CHAIRMAN BROWN: Ms. Walters your request has been denied. The Zoning
5 Administrator will be in touch with you. Next case Mr. Price. Wait a second and let the
6 people -

7 **CASE 05-67 SE:**

8 MR. PRICE: The next item, excuse me, the next case is 05-67 Special
9 Exception. The Applicant is requesting the Board of Zoning Appeals to grant a Special
10 Exception to permit the establishment of a family daycare on property zoned RS-1.

11 CHAIRMAN BROWN: Hold on a minute, Mr. Price.

12 MR. PRICE: The next case is 05-67 Special Exception, the Applicant is
13 requesting the Board to grant a Special Exception to permit establishment of a family
14 daycare on property zoned RS-1. The Applicant is Alice Muhammad. The location is
15 1110, I believe it's Tyeu, is it Tyeu Trail. Once again the zoning is RS-1 single-family
16 residential. The subject project has an existing single-family residential structure. A
17 driveway leads to an enclosed section of the house. The rear of the property is not
18 enclosed by a fence. The Applicant is making some provisions to have the rear yard
19 fenced in. The Applicant proposes to establish a family daycare for a maximum of six
20 children. The ages of the children will range from infant to four years of age. The
21 proposed hours of operation are 6:00 a.m. to 6:00 p.m. The subject property is located
22 within a community of single-family residential structures, Belmont Estates. I believe I
23 gave you, I gave you some paperwork that the Applicant received from Department of,

1 excuse me, the Public Works Department, about some future work that will be done on
2 the rear of the property. There's like a little creek that runs through there and they're
3 supposed to be doing some work there. From talking to the Applicant they're supposed
4 to also level off that, some of that rear of the property also.

5 CHAIRMAN BROWN: Alright Ms. Muhammad, if you'd state your name for the
6 Record and tell the Board what it is that you want to do please.

7 **TESTIMONY OF MS. ALICE MUHAMMAD:**

8 MS. MUHAMMAD: Thank you. Good afternoon. My name is Alice Muhammad.
9 I live at 1110 Tyeu Trail, Columbia, South Carolina and I'm here today requesting a
10 Special Exception to have a family daycare in my home. I have re-renovated my
11 garage area, here on the board here that you see, preparing to accept one infant and
12 toddlers, preschoolers, before they reach kindergarten. I'm in a community now that the
13 demographics have changed, our residents who have been there for years have moved
14 out, we're getting a younger family people, or associations here and I have a lot of
15 people that live there that knows me, that I have done this and tried this once before
16 and requesting that I come back because there is the need for the care of smaller
17 children. I live in the Belmont Estates. My entrance to that Belmont Estates, as soon
18 as you come into the subdivision my home is there, Tyeu Trail is one block. My side
19 streets are Statler and Bakersfield, this is the only street that I have that has [inaudible].
20 I'm a person who, I'm going to school currently, getting my business management
21 degree and associate degree in business management, which I will complete in June of
22 this year. I've worked with children in my career as assistant teacher when I lived up
23 North. I'm a people person. I felt the need to have a smaller daycare environment

1 because a lot of parents, and I have been one myself, that have had my children out
2 into the larger environments, with children coming home sick most of the time. I have a
3 creek in my back yard, which I have given you a folder showing, we have plans, the
4 Department of Public Work has plans, after six years of negotiating with them and the
5 residents here, they will be covering up that creek, putting in pipes in that location as
6 well as leveling off the grounds of many of the residents on each side of the creek. That
7 will commence July, I was give the dates of the 9th, it will start, that project will start. I've
8 also been advised that they will be sending us notices letting us know, so that when the
9 men and the trucks come we'll understand and know what that is about. You see my
10 home location there. I was here once before, I didn't know why I was denied at that
11 time but I'm hoping this time that I do a better job of presenting this to you. I do have a
12 patio area in the back, which sits off of the ground. That patio area has an outside area
13 as well as an enclosed area. I have two areas in that patio. I have an enclosed side
14 and an outside side. There is a gate to the stairs leading down to the ground that I have
15 gotten an estimate for so that I can have that closed off as well. There may have been
16 some concerns about my sloping backyard where my ground level has ranned off with
17 the creek that was there.

18 CHAIRMAN BROWN: Any questions by Board Members for Ms. Muhammad?

19 MS. PERKINS: Is there a, you said in the application, you're going to unload the
20 children on the side of the house, let me see?

21 MS. MUHAMMAD: I have my, the garage area, that's my garage area there, the
22 previous picture. This picture here is my property location, that's my garage, the brown
23 part there. I can park my cars in both areas there. The children can be brought up to

1 the pavement area there, and they would be dislodged there. I have the entrance into
2 my home, I have three entrances. That garage area there opens up where I can receive
3 them as well as on the left side of that picture, is where my door to my home is at.

4 CHAIRMAN BROWN: Any other questions for Ms. Muhammad?

5 MS. PERKINS: And two people will be there?

6 MS. MUHAMMAD: Yes, ma'am, two people. I have a young lady who goes to
7 college and she's getting her degree in early childhood development. She will be
8 assisting me part-time and I'm assisting her with getting this experience with the
9 children while she's working in that profession, so.

10 MS. PERKINS: Now in your packet, that was presented to me, you said that you
11 may need to open earlier than 6:30, now are you going to open at 6:30 or are you going
12 to open earlier?

13 MS. MUHAMMAD: Six-thirty is the time of day that we would be open. There
14 may be some parents, sometimes, I have a lot of nurses who live in the community that
15 may have to get in early or maybe after night shift that may get in late in the morning.
16 So an exception would be made once in a blue moon I would imagine.

17 MS. PERKINS: But maybe, but if you're asking us, that's the time of your
18 operation and I don't know that that would be an exception; is that correct Mr. Price?

19 MS. MUHAMMAD: Six-thirty?

20 MR. PRICE: I'm sorry. If she wants to change her time, if she's going to change
21 the time that's -

1 MS. PERKINS: She's got, she's got on the application, I think, 6:30 am to 6:00,
2 but then in her, in the little packet that you gave us, she states that she may open
3 earlier.

4 MR. PRICE: Well, I mean, we can, she can clarify what times she going to open
5 and then y'all can take that into consideration on making your decisions and that can be
6 part of the stipulations that those will be the hours of operation.

7 MS. PERKINS: I just want to make sure that she understood it.

8 MS. MUHAMMAD: Yes, the hours of operation is 6:30 to 6:00. I just stated that
9 information because if a parent should have an issue or concern and may need to bring
10 a child, 6:15, I don't know that anyone's going to be 6:15 or a few minutes earlier, I'm up
11 at that time is what I'm letting that parent know, that I would be able to assist. It's not
12 something that's going to be done on a regular basis. I'm just thinking that it's probably,
13 you know, just letting that parent know that if that should come up.

14 MS. PERKINS: And I understand that. I was just asking Mr. Price if that, you're
15 asking us to okay this business operation from 6:00, not at 6:15, I mean at 6:30, not at
16 6:15, is that -

17 MS. MUHAMMAD: That's right, 6:00, that's correct.

18 MR. PRICE: It may just be better just to make it at 6:00. I don't know that 30
19 minutes is going to make a difference, but just for the Record, if you could just make it
20 6:00.

21 MR. TOLBERT: Mike, I'd like to see the back porch. Yeah the back yard, what
22 is that, okay, now right there. Now you said that, you're going to have this fixed, fix that
23 up or -

1 MS. MUHAMMAD: There is a, there is another part to that patio area which is
2 enclosed. This part here, sits out in the sun. That part will lead to the stairs coming
3 down to the ground and that is the location, the area, that I stated that I was going to
4 have a fence put up where those stairs are at.

5 MR. TOLBERT: Mike, you've got a shot of that?

6 MR. MIKE SPEARMAN: What she's talking about is on the far end of that deck, I
7 believe, is the enclosed part, that's the best shot I have of it, Mr. Tolbert.

8 MR. TOLBERT: Okay.

9 MS. PERKINS: But you're going to fence in the entire backyard for the children?

10 MS. MUHAMMAD: Yes, ma'am, I am. I have an estimate.

11 MS. PERKINS: In addition to fencing in that part so they won't be allowed to get
12 into that area, is that what -

13 MS. MUHAMMAD: In addition to putting a door to that stair location, yes, I'm
14 going to fence in the back yard.

15 MS. PERKINS: Yes you're going to fence in the backyard but you're only going
16 to put a gate up to keep the kids from coming down the stairs?

17 MS. MUHAMMAD: That is correct.

18 MS. PERKINS: Okay, I understand.

19 MS. MUHAMMAD: Yes, that's correct.

20 CHAIRMAN BROWN: Ms. Muhammad, in looking at the plat, on your property, it
21 doesn't appear that you have all of that area to the, would be to the right of your
22 driveway, is that your property?

1 MS. MUHAMMAD: Yes, sir, that is where the grass is at, is that what you're
2 stating?

3 CHAIRMAN BROWN: Yes, ma'am.

4 MS. MUHAMMAD: Cause I have the paved location as well as the, where that
5 grass is at.

6 CHAIRMAN BROWN: I'm talking about next to the driveway now. Mike can you
7 go to that picture?

8 MS. PERKINS: Oh, I see.

9 CHAIRMAN BROWN: Looking at the plat here, it's, that we were furnished,
10 there, yeah that's it, it only appears that there's a few feet between the edge of the
11 driveway and your property line and yet the area that's open there, I can't judge from
12 the picture, but it's probably 15 to 20' at least. Is that all your property?

13 MS. MUHAMMAD: Yes, sir. That leads down into my backyard that grass
14 location that you're looking at. As well as that, my neighbor to the right of me, that
15 property that you see to right of me, that neighbor any myself moved in at the same time
16 and we too have been down at the, is it, here, right here at this location I believe, to
17 have that information be clarified as to who property it was. At this time, between
18 neighbors, we have already decided that my two cars would be on that location there.
19 She parks in the back as well as having front area where she drives in at, she has a
20 back area also where she's parks and she has three cars.

21 MR. MIKE SPEARMAN: I can show you the front of her house too. Show that a
22 little bit better.

1 CHAIRMAN BROWN: Okay so you're saying then that in essence, or in fact, you
2 and your neighbor share that property essentially, or the use of it?

3 MS. MUHAMMAD: Yes we do, yes we do. I am the main person who use that
4 grass location there where you see my neighbors home at and this was decided
5 between the two of us, as well as coming here to find out just who's location that is. As
6 I stated, that grass location leads down into that slope area into my backyard. So this
7 was a concern when we both acquired the properties, but it is no longer. She parks in
8 her driveway there where you see the cement area. She also has an area back behind
9 her home where she enters on the Statler side.

10 MS. PERKINS: So let me, you say it's an, it's an oral agreement between your
11 neighbor and yourself? You said that you will use the property jointly, but it is not, what
12 did the county tell you about whomever it would go to?

13 MS. MUHAMMAD: We have not gotten to anyone to, to tell us anything at this
14 time because we have been waiting and waiting and between ourselves we have went
15 on and say, well you'll park there, she hasn't have any disagreement with me with that,
16 with parking there. She is one of my neighbors who knows that I'm acquiring, or trying
17 to acquire the daycare services as well and I've had no objections with her. As a matter
18 of fact if she would have been able to come today, she would have come to voice her
19 approval of it.

20 MR. YOUNG: How long have you lived at the property?

21 MS. MUHAMMAD: I've been here eight years.

22 MR. YOUNG: You have, in eight years did you get a survey or anything done to
23 mark your property boundaries or anything?

1 MS. MUHAMMAD: I believe that should have and would have been done when
2 we first purchased the property.

3 MR. YOUNG: Did you purchase the property from a Walter Carson?

4 MS. MUHAMMAD: Yes, sir. They were the original owners of the property.

5 MR. YOUNG: Right, I think that's the last one showing on file that the Staff
6 provided to us, is showing Walter Carson. So they're hadn't been another one recorded
7 since then and the one we're looking at only shows, maybe less than 10' from that
8 driveway to the property line, which means the majority of that property is your
9 neighbors and not yours.

10 CHAIRMAN BROWN: Ms. Muhammad, when do you anticipate having the fence
11 erected in your backyard?

12 MS. MUHAMMAD: I'm getting estimates on the fence. It would have to be a
13 fence that would come closer to the home location because they are getting ready to
14 commence the work of covering up that, or laying pipes in that creek location.

15 CHAIRMAN BROWN: But when do you anticipate doing that?

16 MS. MUHAMMAD: That will also be in July/August of this summer, this year.

17 CHAIRMAN BROWN: Any more questions for Ms. Muhammad? Thank you,
18 ma'am.

19 MS. MUHAMMAD: Thank you.

20 CHAIRMAN BROWN: There's no one signed up in opposition. The Chair will
21 entertain discussion amongst the Board Members.

22 MR. TOLBERT: Mr. Chairman, I have a couple of concerns here. One would be
23 the area of loading and unloading. I don't know if the neighbor, if they fall out what's

1 going to happen. Secondly, the safety of the children without a fence and depending on
2 the operation, when that's going to start; no idea of when the fence is going to be
3 erected.

4 CHAIRMAN BROWN: Well we could, the fence could, the erection of the fence
5 could be made a condition on which the approval would be granted so that the Special
6 Exception wouldn't take effect until such time as the fence is actually up.

7 MR. TOLBERT: I understand that, but I was just voicing the thing.

8 CHAIRMAN BROWN: That's a legitimate concern.

9 MR. TOLBERT: Yeah and not knowing that the work that county or the city is
10 going to do in the back as well too, so, you know, I'm just speaking of, generally talking
11 about that safety and my concerns right now as they stand.

12 CHAIRMAN BROWN: Well, you know, in the previous one I voiced concerned
13 about the encouragement of commercial uses into a residential district, but apparently
14 no one in this residential district is concerned about that, so I'm not sure why I should
15 be, other than in, sort of a philosophical way. I'm not sure I understand exactly what the
16 situation is with that strip of property between the two houses. At best I guess it's some
17 sort of informal arrangement with the current adjoining property owner and as you say,
18 should that property change hands, whoever moves in may not be as receptive to the
19 joint use of that property. It would appear that perhaps if that were to happen that
20 there's enough area between the driveway and her yard to be able to do a three point
21 turn there and turn around a get back out. It is problematic as to what the situation is
22 with that intervening piece of property.

1 MR. YOUNG: I'm just curious as to what's different now than when we denied it
2 last time?

3 CHAIRMAN BROWN: I don't know of any, I don't remember the basis of denial
4 last time off the top of my head.

5 MS. PERKINS: Do you remember?

6 MR. TOLBERT: I don't remember.

7 MR. YOUNG: I know the rear yard was a major concern then and I'm not sure if
8 the property line itself was a concern, but it's the loading and unloading, mostly safety,
9 the rear condition of the yard.

10 MS. PERKINS: And with that being said and there's going, there is work by the
11 county to be done on the yard. Is that not what we're hearing?

12 MR. TOLBERT: Yeah.

13 CHAIRMAN BROWN: I don't think the work being done by the county is going to
14 change the, it's going to pipe that ditch, I guess, the ditch is still going to be there and
15 there's, it'll be piped but – and to a certain extent it may alleviate some of the, some of
16 the drop in the back of the property, I don't know. But I guess it's an improvement to
17 have it piped rather than just have it be an open ditch certainly in terms of safety and if
18 the fence ends before that ditch, it sort of takes the ditch out of consideration as far as a
19 safety factor.

20 MS. MUHAMMAD: Mr. Brown, may I please, they gave us the letter and the
21 information on the back of that letter that you have. It does show that they are putting
22 pipe and covering up that pipe with dirt.

23 CHAIRMAN BROWN: Okay.

1 MS. MUHAMMAD: So you're not going to see any holes at all. It's going to be
2 covered up with dirt and that's how they going to be leveling my ground level as well as
3 my neighbors on both sides of me. That is my property, that ditch is my property there,
4 that's going to be covered up with dirt so you're not going to even know that the pipes
5 are under there.

6 CHAIRMAN BROWN: Okay that will be a significant improvement, just the
7 backyard. Any further discussion? Hearing none the Chair will entertain a motion.

8 MS. PERKINS: Mr. Chair, I move that we grant Special Exception 05-67 on the
9 condition that the fence is in place and the [inaudible].

10 CHAIRMAN BROWN: And would you accept an amendment to that? The
11 vacancy, abandonment, or discontinuance for 12 months will void the Exception?

12 MS. PERKINS: Yes, I certainly would.

13 MR. TOLBERT: I second.

14 CHAIRMAN BROWN: Been moved and seconded -

15 MS. PERKINS: And, excuse me, before - can I, kind of amend the amendment
16 because her hours of operation, I think she said 6:30 and she wanted to come in earlier
17 so we said 6:00, is that what it was?

18 MS. MUHAMMAD: Yes, that's fine.

19 MR. TOLBERT: Yes, 6:00 to 6:00.

20 CHAIRMAN BROWN: So the motion is to approve with, on the condition that the
21 fence be erected, that she be able to load and unload the children off the right-of-way
22 successfully, that any discontinuance for a 12 month period will void the Special

1 Exception, and that the hours be from 6:00 to 6:00 daily, did I sum that up correctly?

2 Okay. All in favor of the motion indicate by raising your hand.

3 *[Approved: Young, Brown, Tolbert, Perkins; Absent: Branham, Dorsey]*

4 CHAIRMAN BROWN: Ms. Muhammad, you have your request.

5 MS. MUHAMMAD: Thank you Mr. Brown, Mr. Young, Mrs. Perkins, Mr. Tolbert,
6 thank you, thank you very much.

7 CHAIRMAN BROWN: The Zoning Administrator will be in touch. Next case Mr.
8 Price.

9 **CASE 05-68 SE:**

10 MR. PRICE: The next case is Case 05-68 Special Exception. The Applicant is
11 requesting the Board of Zoning Appeals to grant a Special Exception to permit the
12 construction of a communication tower in an RU district. The Applicant is Gary
13 Pennington. The location is 620 Westridge Road. The existing zoning, as stated is
14 rural. The existing status of the property is a electrical utility station. The Applicant
15 proposes to erect a 195' monopole communications towers, within a 9,225 foot, square
16 foot leased compound. The subject property is located amid parcels devoted primarily
17 to residential use. The western portion of the property is abutted by a property owned
18 by Clemson University.

19 **TESTIMONY OF MR. GARY PENNINGTON:**

20 MR. PENNINGTON: Mr. Chairman, Members of the Board, my name is Gary
21 Pennington. I'm an attorney here in Columbia, here on behalf of my client, SCANA
22 Communications. With me here today are Mr. Tom Chambers, who is the tower
23 manager for SCANA Communications, Mr. Brad O'Dell, who works for Cingular

1 Wireless, Mr. Will Robinson, who is the radio frequency engineer responsible for the
2 design of the RF network in and around this area, and Mr. Jonathan Yates, who is legal
3 counsel for Cingular Wireless.

4 CHAIRMAN BROWN: We're very familiar with Mr. Yates. [Laughter]

5 MR. PENNINGTON: So I guess in a way, the application was actually filed on
6 behalf of SCANA Communications. The anchor center of the subject communications
7 tower is Cingular Wireless, so I guess in a way I'm here working for Mr. Yates; quite an
8 ironic turn of events. He's watching me close so I hope I do a good job. In all
9 seriousness, this is an application for a Special Exception; I would ask that the written
10 application be made a part of the Record here. This particular property is owned by
11 South Carolina Electric & Gas Company, SCE&G, it's located at 620 Westridge Road.
12 This is one of these very unique situations, very much similar to the last application that
13 I brought before you and what we have here is a very real need for increased coverage
14 and capacity in an area where it's just difficult to put a communications tower. And to
15 our benefit, SCANA happens to have a piece of property ideally located in and around
16 this heavily residential area that is well suited because of it's existing use as a
17 substation, for that additional use of a communications tower. And it's, we're not always
18 this lucky, but in this particular case, we happen to be. I got a few boards I'm going to
19 put up as I talk just so you'll get familiar with the area I'm talking about. I'll try to speak
20 loudly so they can pick this up, but this the general tax map of the area, I'm sure -

21 CHAIRMAN BROWN: Mr. Pennington, excuse me, you might take that
22 microphone right here or, no, either take one of ours or you could probably take one on
23 the -

1 MR. PENNINGTON: This is the tax map of the area. This is in northeast
2 Columbia, off of Clemson Road. It sits back behind the Clemson University property
3 which is zoned commercial. This is Bookman Road here, and this is the particular, this
4 isn't probably the best tax map to use, but this is the particular parcel of property we're
5 talking about. This property is almost seven acres in size. It's a very large piece of
6 property and as I indicated, it is presently developed as a substation for SCE&G. The
7 proposed tenant for this communications tower is Cingular Wireless. I know you're very
8 familiar with Cingular Wireless. I'm not going to go into a great detail about them as a
9 company, they've got people here that can do that if the need arises. But Cingular does
10 have a very real need in this area to improve its subpart coverage in capacity. Basically
11 we're trying to improve coverage around Bookman Road and Two Notch, Bombing
12 Range Road and Kelley Road and Clemson Road and Two Notch Road. And one of
13 the things that's most important about this particular site is what we're really trying to do
14 here is not only improve coverage in and around the streets, but to improve out in-
15 building coverage. Things have changed; in the time I began doing these hearings, 10
16 years ago, what we were try to do predominately is cover the highways and byways of
17 life, the interstates and the major corridors in and around Columbia. Well that's not true
18 anymore, most of those areas are covered. What we're trying to do now is to meet the
19 demand of what we refer to as in-building coverage. You know, there are various types
20 of coverage and the most difficult type of coverage as we refer to is in-building coverage
21 and that is getting the signal inside of the building, inside of the home. Reality of our
22 market place today is that people, when they buys homes and move into homes, they're
23 not calling BellSouth to ask for a landline to be installed, what they're doing is, they're

1 just taking the existing phone they have and using that as their primary means of
2 communication. One of the things you will notice from the application is that most of the
3 homes in and around this area are newer, are newer homes; entry to mid-level homes
4 and most of these homes have been constructed subsequent to the actual construction
5 of the substation. So the substation's been there for quite some time and the residential
6 development's occurred around it, but people want to use their phones in their home;
7 even myself, I do have a landline phone in my home but I don't have long distance
8 service. Most of the time I've got my phone on my belt and I'm at home I use my phone
9 and that's my primary means of communication. I employ a good number of people that
10 work in my firm and we have a phone sheet of everybody's phone number at home and
11 mobile. Well the home number side is about half empty, but the mobile number's full.
12 All of the young people that work for me, including people that own homes, they don't
13 have landlines anymore, it's just, that's where we're going. If you look at the statistics,
14 the number of landlines that the landline companies have decrease every year by a
15 great percentage and the number of, the percentage of people in America today that
16 utilize wireless communications continues to increase tremendously. I know all of you
17 have seen these before in prior hearings, but this is the propagation map that gives you
18 the projected coverage, existing, and future coverage of this proposed facility. As you
19 can see here, what is represented by the darker green areas are the areas where we
20 have existing coverage, where Cingular has existing coverages. And you can see these
21 facilities here, these are existing facilities in and around this area; this is Two Notch
22 Road that runs through here, this is Hard Scrabble over here, Bombing Range and the
23 highway numbers here probably have no significance to you. But you see all these

1 white areas, this is that area where we really have no coverage, that means your phone
2 is not going to work there and that's a problem because the people that live in and
3 around this area are not able to use their phones and we want the phones to work
4 everywhere, not just in the car. This is our prorogation map after the fact. As you can
5 see the green is, has now filled in this area so that we've got continuous coverage in
6 and around this residential area, as well as these various roads in and around this area
7 so that there's continuous coverage, the calls are not dropped and when you try to
8 place a call or originate a call in these areas it's going to work. This is a survey of the
9 actual property, just to point out some key things here; this is Westbridge Road here,
10 the access is a 50' parcel that goes through here, in and to the substation. This is the
11 almost seven acre parcel that I was referring to. This is the fenced area, the existing
12 substation. This is a cleared area, the Clemson property is off to this side, but through
13 here, between the actual substation and Westbridge Road, what we have are two
14 basically, it's about 150' of right-a-way through here and one part of that we have an
15 underground utility pipe, Carolina Pipeline Utility, which is a gas pipe line. And then, in
16 this larger area, SCE&G has a 100' right-of-way for not distribution lines but high power
17 transmission lines. So not only do you have the existing substation use on this
18 property, you also have, as I indicated, these high power transmission lines that actually
19 separate Westbridge Road and the homes that are either constructed or will be
20 constructed here and the substation and the tower site is actually over on this area,
21 here. And this is a heavily wooded area on, on this particular parcel, here. As I
22 indicated, most of the homes in and around this area have been constructed after the
23 substation and after the utility lines were put in. This is just a spotlight of the actual

1 service area or the site plan, if you will, of the actual construction that's going to take
2 place. The communications tower is going to be built to accommodate up to five
3 carriers and this just gives you a demonstration of what SCANA Communications
4 proposes on the ground, as far as the equipment buildings go. The actual tower that
5 we're proposing to construct is a monopole because this is a, somewhat of a residential
6 area, some of the adjacent properties, we decided to do a monopole structure as
7 opposed to a lattice tower that will not be lighted. We've got determination from the
8 FAA that it will not be necessary to have it lighted. All the antennas will be mounted,
9 obviously, at the top of the tower. All the cables will be mounted in the interior of the
10 tower. But aesthetically, obviously, this would be the more desirable tower for this
11 particular area. This is a, this is a photo simulation that we have prepared, this is at the
12 intersection of Turtle Creek and the actual, going into that subdivision, looking back
13 towards the tower site. These are the power lines that I was talking to you about. As
14 you can see there are multiple poles, it's not just one row of poles but multiple rows of
15 poles that go through that area there. So you've already got this heavy utility use and
16 what we've done is superimposed the communications tower and we did a balloon test
17 to basically be able to judge exactly what the right perspective should be, so we've got
18 the scale right on the tower, so that's basically what that's going to look like. So you
19 can see it's not as if there is a pristine view there, there's already the utility use, so we
20 feel that this is a good mixture, if you will, of an existing use in and around an area
21 where there are residences, such that the impact is minimal. Unfortunately, in this
22 particular case, there was, there were no potential opportunities for co-location. This
23 has been a very difficult area for Cingular to attempt to obtain coverage. We do feel

1 that this is the best solution available to them. Mr. Chairman, I've addressed each of
2 the required Special Exception criteria in the application. I'm not going to go through
3 those here today unless you want me to, but at this time I request that the Board
4 approve the application. I'll answer any questions you may have.

5 CHAIRMAN BROWN: Any questions of Mr. Pennington?

6 MR. TOBLERT: I'd like to say, you got to do like Mr. Yates, you got to bring
7 somebody up to help you some with these charts.

8 CHAIRMAN BROWN: Don't encourage him he may bring Mr. Yates. [Laughter]

9 MR. TOLBERT: Given the nature of the subdivision, have this been
10 communicated with the subdivision, to the residents in the subdivision as to, I know they
11 got enough power there already, but I'm just saying, out of courtesy, was that -

12 MR. PENNINGTON: Well Mr. Chambers, who is the manager of the tower
13 company, did have a conversation with Oscar Flight, who has represented himself as
14 the president of the Turtle Creek Association. He asked some general questions and
15 he gave him some information, but that's been the extent of the communications with
16 the community. So they are aware of it.

17 CHAIRMAN BROWN: Mr. Pennington did any of the rest of the individuals that
18 are signed up, in favor of this -

19 MR. PENNINGTON: Not unless you have questions.

20 CHAIRMAN BROWN: Any other questions of Mr. Pennington? Alright, thank
21 you, sir. I have Mrs. Bush signed up in opposition, Mrs. Bush.

22 MR. PRICE: I would like to point out that I've never seen Mr. Yates flip his own
23 boards. [Laughter]

1 **TESTIMONY OF MS. EVELYN BUSH:**

2 MS. BUSH: For the Record, my name is Evelyn Bush. I live at 7309 Venus
3 Road in Columbia. And I'm here once more to speak as a citizen who is concerned
4 about the public health and safety of all of the new, the new generation that we are
5 living in. There's so much coming so fast that the people, the ordinary people can't
6 keep up with it. And that, I realize that you all have a very tough job, because it, when
7 you have professionals to come and talk to you, present they're case, when you, as far
8 as I know, there's no one else here to speak against these people here today. And, as
9 you know that I'm trying often and so often, this is all I get is when I read the legal ads.
10 And that, I know this has been here before and it just bothers me that this is going up in
11 a, near a residential neighborhood and I've been told that people have opportunity to
12 come speak against it, but what I see is people, ordinary people can't do this because
13 they've got jobs. And another thing, they don't read these legal ads, ads that, you
14 know, you all know from experience your signs come down. But this to me is, is just,
15 doesn't seem fair to me that when the different companies look into the historical places
16 there and they've put all of this information out and they have various conservation
17 commission, historical side, all these people looking into these things, but who's looking
18 after the health? I mean, I can't do it and I don't know that you all have the expertise to
19 do it; to look into this type of radiation that these people are being exposed to. So I
20 guess I'm wasting my time, but I just want to tell you that this still bothers me. It's just
21 the plain, ordinary citizens that I think that the health and safety of the people living
22 anywhere near there, they, it should be someway that they really have an opportunity.
23 There's not, I know there's not, but I'm just here to say it bothers me.

1 CHAIRMAN BROWN: Thank you Ms. Bush. Any questions for Mrs. Bush?
2 Thank you, ma'am. Don't have anyone else signed up, anything you wish to present
3 and rebuttal Mr. Pennington?

4 MR. PENNINGTON: No, Mr. Chairman.

5 CHAIRMAN BROWN: The Board will entertain any discussion.

6 MR. TOLBERT: Mr. Chairman I don't know if there's anything to discuss. Like
7 you said earlier, no one showed up and they got plenty of power lines, so I, seem like, I
8 know Ms. Bush made a valid point, but I would think, you know, given the conditions
9 that they have to live with now with the power line, this - transmission of that has a lot
10 more bearing than the cell tower. And I do realize the need for emergency procedures,
11 the need for emergency type device in the homes, with everything happening now with,
12 you know, people with pools and stuff like that, we really need these emergency type
13 devices so, I mean, I cannot see any other reason to go on with any other discussion.

14 CHAIRMAN BROWN: Well I understand Mrs. Bush's concerns too, but as you
15 say, with the number of transmission lines through there and the fact that you've got a
16 power substation there, it seems like if there were going to be health concerns, those
17 would generate more of them than this particular tower would. I kind of share your
18 thoughts I guess. Hearing no other discussion, the Chair will entertain a motion.

19 MR. TOLBERT: Mr. Chairman, I make a motion that 05-68 SE be approved.

20 MR. YOUNG: Second it.

21 CHAIRMAN BROWN: It's been moved and seconded that 05-68 SE be
22 approved. All in favor indicate by raising their right hand. No one in opposition.

23 *[Approved: Young, Brown, Tolbert, Perkins; Absent: Branham, Dorsey]*

1 CHAIRMAN BROWN: Mr. Pennington you have your request. The Zoning
2 Administrator will be in touch with you.

3 MR. PENNINGTON: Thank you, Mr. Chairman.

4 CHAIRMAN BROWN: Next case Mr. Price.

5 **CASE 05-70 SE:**

6 MR. PRICE: Okay the next Case is 05-70 Special Exception. The Applicant is
7 requesting the Board to grant a Special Exception to permit the establishment of a
8 professional service in a C-2 district. The Applicant is Danny Kiser. The location is
9 8741 Wilson Boulevard. The existing zoning is C-2 which is neighborhood-commercial.
10 The subject property has an existing unoccupied structure devoted to commercial use,
11 or at least it was devoted to commercial use. The Applicant proposes to establish a
12 plumbing and heating and air company. The subject property is located amid parcels
13 devoted primarily to residential use.

14 CHAIRMAN BROWN: Mr. Kiser please state your name for the Record and tell
15 the Board what it is that you want to do, sir.

16 **TESTIMONY OF MR. DANNY KISER:**

17 MR. KISER: My name is Danny Kiser. I actually own the building, property
18 located at 9800 Wilson Boulevard. Basically it's a rental property for me and I've been
19 approached by two different companies; one of them is a plumbing company and the
20 other is a heating/air conditioning company and that's why I'm here to try to get the
21 Special Exception so that either one rent the building. My understanding it's not -
22 specifically named for that type of business under the C-2 zoning and that's pretty much
23 it.

1 CHAIRMAN BROWN: So this is going to be a rental situation?

2 MR. KISER: Yes, sir. I'm not, both of these companies, they're not start-up
3 companies, they've been in business a while. They're not my companies, I'm just
4 looking to rent out to them.

5 CHAIRMAN BROWN: So you don't at this point know whether it's going to be a
6 plumbing company or a heating and air conditioning company?

7 MR. KISER: It's more than likely going to be the plumbing company. I haven't
8 been in touch with the heating and air company in a while. I think he has probably
9 moved on to some other location, but I have still been in touch with the plumbing
10 company recently.

11 MR. TOLBERT: What is the building being used for now?

12 MR. KISER: It's empty now. The last thing that was in it, we had an alteration
13 shop, lady running an alteration shop in it and before that there was a heating and air
14 company using the building but they weren't really operating the business from that
15 location. But basically now the building is empty.

16 CHAIRMAN BROWN: I'm a little skeptical -

17 MS. PERKINS: Yeah, I'm trying to figure out -

18 CHAIRMAN BROWN: - of approving a piece of property for different potential
19 uses. If we had a use that was established as going into it I'd be much more
20 comfortable with this.

21 MS. PERKINS: Me too.

1 CHAIRMAN BROWN: Rather than doing something sort of in anticipation of
2 possibly having a, become, seems to me that this applicant may be here a little bit
3 premature.

4 MS. PERKINS: I would ditto that.

5 MR. KISER: Well what I was, the reason I'm trying to get the Special Exception
6 is because they can't get a business license to operate there. They don't want to
7 commit to renting the building unless they can get a business license to operate out of
8 the building.

9 CHAIRMAN BROWN: I have no, personally I'd have no problem in entertaining a
10 request for one or the other type of business, but to, to do it for one or another type of
11 business bothers me.

12 MR. KISER: Well, like I say, I've been approached by two different ones, but the
13 first, the first one, the heating and air company I haven't been in touch with them in a
14 while. But both of them, I don't know, to me they're both similar type businesses.
15 They're both in a residential service type business and this would not be, actually, the
16 home office or the main office for either one of them, it's kind of like a satellite location
17 for them.

18 MS. PERKINS: Are you house - if were a heating and air conditioning repair
19 place, you're going to house units there?

20 MR. YOUNG: Probably not sure if he said he's just renting it, he owns the
21 building.

22 MS. PERKINS: Oh, that's, oh well, okay, well.

1 MR. YOUNG: I'm almost kind of surprised that someone from, developer or
2 someone from the neighborhood right across the street didn't come here or contact us
3 as well. I know that, I think that's Stonington community, a PUD with Richland County.

4 MR. PRICE: Well, I mean, it wasn't, it was probably the last couple of months
5 that this property was zoned rural and it was recently rezoned as C-2 and I believe
6 during that time, during the rezoning, there was very little opposition, during the
7 rezoning process, so that might explain why no one's here now, because if they weren't
8 here during the rezoning of the property they probably aren't going to come during the
9 Special Exception.

10 MS. PERKINS: It could be that they don't understand it either, you know.

11 MR. YOUNG: I know there is a lot happening in that area.

12 MS. PERKINS: Yes.

13 MR. YOUNG: I think the Catholic Church is built one church there, but that's the
14 smaller of what's, small version of what's coming directly across the street there. Like
15 Mr. Brown, I'd rather know specifically what we're dealing with instead of just, I can
16 understand your position, you know, you want to open yourself up to whichever, to
17 either tenant, but from our position we would like to have a little more specific
18 information about what we're dealing with as far as the business, what they're going to
19 do and the things along those lines.

20 CHAIRMAN BROWN: Mr. Kiser you may want to consider the fact there seems
21 to be a certain lack of comfort of the part of the Board to look at several different uses
22 here and if we vote to disapprove your request, you can't come back for a year. You
23 may want to withdraw this until you have a client who, a specific client who is ready to

1 rent this property so that we'd only be dealing with one potential business. You can do
2 what'd you like, it's up to you of course, but I just want to throw out to you that if the
3 Board votes to deny your request, it's a year before you can come back with another
4 request pertaining to the same property.

5 MR. PRICE: May I throw this suggestion, at least from what I'm hearing, Mr.
6 Kiser has someone in mind, but they evidentially sent him along to do the, to get the
7 Special Exception before they actually invest in the property. Maybe if this was deferred
8 until next month he could actually bring the tenant here and let the tenant explain, you
9 know, explain all of that and then maybe -

10 MS. PERKINS: That would still be a revision in the application as it is presented
11 to us now, because it says either or.

12 CHAIRMAN BROWN: Really says a professional service, it doesn't specify.

13 MS. PERKINS: I thought it said -

14 MR. TOBLERT: I saw in this application, plumbing company or heating and air.

15 CHAIRMAN BROWN: Does it?

16 MS. PERKINS: Yeah.

17 CHAIRMAN BROWN: Okay.

18 MR. PRICE: It says plumbing and heating air.

19 MS. PERKINS: Either or and I would, and if you're willing to amend that, to
20 whomever he presents, you know, when he does his presentation to defer and as long
21 as this is a part of the Record.

1 MR. PRICE: Just, this is just kind of a question, I'm asking for the Board, would it
2 make a difference if the, if the request was for a home repair establishment or do you
3 need something specific as in plumbing or heating and air?

4 CHAIRMAN BROWN: Personally I'd like to know a specific business.

5 MR. PRICE: Okay, I mean that, that's -

6 CHAIRMAN BROWN: Would you like to do that Mr. Kiser, defer a month?

7 MR. KISER: That might be better.

8 CHAIRMAN BROWN: Is there a motion by the Board to defer this until the next
9 meeting?

10 MR. TOLBERT: So moved.

11 MR. YOUNG: Second

12 CHAIRMAN BROWN: It's been moved a seconded to defer this application to
13 the June meeting. All in favor indicate by raising their hand.

14 *[Approved: Young, Brown, Tolbert, Perkins; Absent: Branham, Dorsey]*

15 CHAIRMAN BROWN: Unanimous vote, Mr. Kiser we'll just look to hear from you
16 next month.

17 MR. KISER: Thank you, sir.

18 CHAIRMAN BROWN: Thank you. Next item on the Agenda is the approval of
19 the April minutes. Is there a motion to approve?

20 MR. TOLBERT: So moved.

21 CHAIRMAN BROWN: Second?

22 MR. YOUNG: Second.

1 CHAIRMAN BROWN: Been moved and seconded to approve the minutes of the
2 April 6th meeting. All in favor indicate by raising their hand.

3 *[Approved: Young, Brown, Tolbert, Perkins; Absent: Branham, Dorsey]*

4 CHAIRMAN BROWN: Unanimous vote. Under Other Business, review and
5 approval of the By-laws and Rules of Procedure.

6 MR. PRICE: Yeah, well, this is when it gets really interesting. There are four of
7 you here now. We do have a new Member that was recently appointed by Council last
8 night so we'll be up to the full seven. Of course from my understanding, over the next
9 couple of months we won't have all seven here. So it's just a matter of approving them
10 now, wait a couple of months to approve them. I mean there's really no, it doesn't seem
11 like there is going to be a time when everyone is here.

12 CHAIRMAN BROWN: Well we've been fiddling with these for five months now, I
13 think, or better.

14 MR. TOLBERT: Mr. Chairman, I think it reads in there somehow if we go ahead
15 and approve them they can be amended down the line. So, I mean, that would solve
16 the problem, cause we'll be looking at this thing till the end of next year.

17 CHAIRMAN BROWN: Well and the fact of one new Member is appointed to the
18 Board doesn't, I don't think, he'll take them as he finds them.

19 MR. TOLBERT: Yeah, but there is a provision in there that I read that would
20 allow us to do that.

21 CHAIRMAN BROWN: Oh sure, yeah. I agree, I think we should go ahead and
22 get these cleared up instead of having them hanging over the Board for another number
23 of months.

1 MR. TOLBERT: I do have one on the By-Laws that I would just ask the question
2 of some type of recommendation. Under 5-3, it talks about, you know, the Board
3 Members receiving information. Somehow I would like to, it to state at least we get, be
4 in writing that we get a notice like a week prior to the meeting or whatever, we have the
5 information on hand. I got some information last night.

6 CHAIRMAN BROWN: Okay where are, which one are you specifically -

7 MR. TOLBERT: By the agenda and case docket.

8 CHAIRMAN BROWN: Okay.

9 MR. TOLBERT: And it doesn't really specify, it says, it talks about when the case
10 should be heard and all that, but I was just looking at the matter of some form of, say it
11 10 days prior or five days prior to of that, or some way to say in the minutes that we
12 would be, if we, I know when an emergency come up we might not get our Agenda on
13 time, but at least there is something in writing as to a projected time when we should get
14 it.

15 MR. FARRAR: Are you talking about actually getting from Staff, the Agenda?

16 MS. PERKINS: Yeah.

17 MR. TOLBERT: Yeah.

18 MR. FARRAR: Oh okay, yeah, this one really pertains to, this section pertains to
19 what an applicant would have to do to make, to actually make the Agenda. If you're
20 talking about the mechanics of getting it from Staff to y'all, I mean, that's -

21 MR. TOLBERT: Right.

22 MR. FARRAR: You can just make a directive on that and just say, "Hey, Staff,
23 you know, we want the thing by whenever."

1 MR. TOLBERT: So we don't need to put it in there, okay, that's my only thing.

2 CHAIRMAN BROWN: Any other Board Members have any additional comments
3 regarding either the By-Laws or Rules? If not, I'll entertain a motion, first as to the
4 Rules of Procedure.

5 MR. TOLBERT: Mr. Chairman I make a motion that the Rules of Procedures for
6 the Zoning Board of Appeal for Richland County, South Carolina, be approved.

7 CHAIRMAN BROWN: Is there a second?

8 MR. YOUNG: Second.

9 CHAIRMAN BROWN: It's been moved and seconded that the Rules of
10 Procedure be approved. All in favor indicate by raising their hand.

11 *[Approved: Young, Brown, Tolbert, Perkins; Absent: Branham, Dorsey]*

12 CHAIRMAN BROWN: Unanimous vote. I'll now entertain a motion for the By-
13 Laws.

14 MR. TOLBERT: Mr. Chairman, I make a motion to approve the By-Laws of the
15 Board of Zoning Appeal for Richland County, of South Carolina.

16 CHAIRMAN BROWN: Is there a second?

17 MR. YOUNG: Second.

18 CHAIRMAN BROWN: It's been moved and seconded that the By-Laws of the
19 Board of Zoning Appeals be approved. All in favor indicate by raising their hand.

20 *[Approved: Young, Brown, Tolbert, Perkins; Absent: Branham, Dorsey]*

21 CHAIRMAN BROWN: Unanimous, both have been approved.

22 MR. FARRAR: I think y'all also wanted me to try to get those on the web site, the
23 county's web site, so people can look at those, yeah, so I'll need -

1 CHAIRMAN BROWN: Mr. Price, I know you'll take care of that.

2 MR. PRICE: Also just, you know, for the Record, this is the last Agenda where
3 we will go by the current Zoning Ordinance. All future cases, from now on, will fall
4 under our new Land Development Code, so.

5 CHAIRMAN BROWN: Reference will be to sections of that Code.

6 MR. PRICE: Yes, sir.

7 CHAIRMAN BROWN: What's the status of the training session that's sometime
8 in May?

9 MR. PRICE: May the 12th. It's open if, if anyone would like to come they still can
10 go to the meeting. I believe I've got some, some contact from Mr. Tolbert and you, Mr.
11 Brown, that y'all would not be able to make it. I believe, right now, the only persons that
12 I've heard from on the Board that's expressing interest in attending is Ms. Dorsey.

13 CHAIRMAN BROWN: Okay the rest of -

14 MS. PERKINS: I'm not, bring me up to snuff, what is it? I heard something
15 about a meeting on the 12th?

16 MR. PRICE: I don't have all of the information before me Ms. Perkins. I'll be
17 happy to, I'll have to get that to you, but kind of in a nutshell, all Boards and
18 Commission are required to have a certain amount of training I believe -

19 MS. PERKINS: Oh okay.

20 MR. PRICE: And this is one of the scheduled times for a training.

21 MS. PERKINS: And it's May 12th, okay. I don't remember this particularly, I do
22 remember you talking about it. And so now this is become mandatory and it's from 9:00
23 to 12:30, Thursday, May 12th?

1 MR. PRICE: Yeah, by January, the - January 2007, they're supposed to be,
2 each Board and Commission Member is required to have a certain amount of hours.

3 CHAIRMAN BROWN: They are going to have to offer this several more times if
4 they're going to make it mandatory.

5 MS. PERKINS: Yeah, yeah, before they, yeah.

6 MR. PRICE: Yes.

7 MR. TOLBERT: I've got another seminar that same day.

8 CHAIRMAN BROWN: If the Board Members can't make it this time, I'm sure the
9 opportunity will present itself again.

10 MR. PRICE: Yeah I think, you know, this is one, they're probably be more
11 SCAPPA(?), little conferences offered, so there will, Mr. Brown's correct, there should
12 be many more offered to get those hours.

13 MS. PERKINS: Well I guess, for Thursday, May 12th, you can put me down to
14 participate in this, if there's room. Did I hear you say that there is?

15 MR. PRICE: There should be room for it.

16 CHAIRMAN BROWN: You might contact the others too, Geo.

17 MR. PRICE: And just to confirm.

18 CHAIRMAN BROWN: To see if they can or want to attend.

19 MR. PRICE: Okay.

20 MS. PERKINS: And exactly where is the ETV building?

21 CHAIRMAN BROWN: It's down by Williams-Brice.

22 MR. PRICE: Williams-Brice.

23 CHAIRMAN BROWN: Right next to Williams-Brice.

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MS. PERKINS: Oh okay.

CHAIRMAN BROWN: Being nothing further, the May meeting of the Board is
adjourned.

[Adjourned 3:18 p.m.]